

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH LEE TAYLOR,

Plaintiff,

v.

PATRICIA CASSADY, *et al.*,

Defendants.

Case No. 2:21-cv-01584-WBS-JDP (PC)

ORDER DENYING WITHOUT PREJUDICE
PLAINTIFF'S MOTION TO STAY THIS
ACTION

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. Plaintiff's complaint alleges that the state presented false information to the parole board and that part of his conviction rests on perjured testimony. ECF No. 1. The court screened his complaint, found that it did not state a cognizable claim, and granted him thirty days to file an amended complaint. ECF No. 8. Rather than filing an amended complaint, plaintiff has filed a motion that asks for the court to stay this case so that he can file a petition for habeas corpus in state court. ECF No. 11. He asks that, should the court not be amendable to staying this action, the case be voluntarily dismissed so that he can "fulfill his state court(s) requirements first." *Id.*

As explained in the screening order, plaintiff cannot challenge the validity of his conviction or confinement in this section 1983 action. "Challenges to the validity of any confinement or to particulars affecting its duration are the province of habeas corpus, *Preiser v.*

1 *Rodriguez*, 411 U.S. 475, 500 (1973); requests for relief turning on circumstances of confinement
2 may be presented in a § 1983 action.” *Muhammad v. Close*, 540 U.S. 749, 750 (2004).

3 Generally, a litigant can pursue these claims separately. *See id.*

4 The court advises plaintiff that he does not need to withdraw this section 1983 action to
5 pursue a state habeas corpus claim. However, to continue with this case, plaintiff must file an
6 amended complaint. If plaintiff does not want to pursue this action, he can voluntarily dismiss it
7 without prejudice by filing a notice of dismissal in accordance with Federal Rule of Civil
8 Procedure 41(a)(1)(A). Additionally, if plaintiff continues to believe that this action should be
9 stayed, he can file a renewed motion to stay that sets forth a legitimate basis for granting such
10 relief.

11 Accordingly, it is hereby ORDERED that:

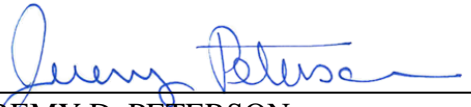
12 1. Plaintiff’s motion to stay this matter, ECF No. 11, is denied without prejudice.

13 2. Plaintiff is granted thirty days from the date of this order in which to file an amended
14 complaint.

15 3. Alternatively, plaintiff may voluntarily dismiss this action by filing a notice of
16 dismissal in accordance with Federal Rule of Civil Procedure 41(a)(1)(A).

17 IT IS SO ORDERED.
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19 Dated: June 23, 2022
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21 JEREMY D. PETERSON
22 UNITED STATES MAGISTRATE JUDGE
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